

Montana Department of Environmental Quality
Permitting and Compliance Division
Waste and Underground Tank Management Bureau
P.O. Box 200901
Helena, MT 59620-0901

DRAFT ENVIRONMENTAL ASSESSMENT

Montana Hazardous Waste Permit Number: MTHWP-01-02

Issued to: BNSF Railway Company
For the Former Tie Treating Plant, Paradise, Montana

Legal Description: NW 1/4 Section 20, SE 1/4 Section 18, SW 1/4 Section 17
Township 19 North, Range 25 West
Sanders County, Montana

Issued by: Hazardous Waste Section
Waste and Underground Storage Tank Management Bureau
Permitting and Compliance Division
Montana Department of Environmental Quality

Purpose of the Environmental Assessment

The Montana Department of Environmental Quality (MDEQ) is required under the Montana Environmental Policy Act (MEPA) to conduct an environmental assessment (EA) on the proposed permit action described in this document. An EA details: 1) all reasonable alternatives to MDEQ's action; and 2) outlines the potential impacts to the human environment resulting from MDEQ's permitting action and reasonable alternatives to that action.

Based on the impact analysis and professional judgment, MDEQ makes a decision on the proposed permit action and summarizes the decision in the EA. If the decision significantly impacts the human environment, a more detailed environmental review, called an environmental impact statement, must be conducted by MDEQ.

Public Comment Period

The public, including interested citizens, MDEQ, EPA, other governmental agencies, and the Permittee are provided forty-five (45) days to review and comment on this draft EA. **The comment period will extend from August 15, 2007 to September 28, 2007.**

All persons wishing to comment on the draft EA should submit comments in writing to:

Ann Kron
Environmental Science Specialist
Waste and Underground Tank Management Bureau
Montana Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

All written comments must be received by the MDEQ on or before September 28, 2007 for consideration. Please contact Ann Kron at (406) 444-5824 or at the address listed above for further information.

Montana Hazardous Waste Regulations

Rules administering hazardous waste management in Montana are set forth in the Administrative Rules of Montana (ARM), Title 17, Chapter 53, Sub-Chapters 1 through 12. Federal regulations for hazardous waste management are set forth in the Code of Federal Regulations (CFR), Parts 124 and 260 through 279, and are incorporated by reference in ARM. For ease of reading this document, when federal regulations under Title 40 of the CFR have been incorporated by reference into ARM, only the federal citation is used.

Description of Project

In 1988 MDEQ initially issued a hazardous waste permit (MTHWP-88-03) to BNSF Railway Company for operation of a land treatment unit, waste pile, and closure of a surface impoundment at its former tie treating plant in Paradise, Montana. Hazardous waste permits are effective for ten years. BNSF applied for permit reissuance to continue operations and in October 2001, MDEQ reissued the permit under number MTHWP-01-02. The permit regulates operation of a corrective action management unit (CAMU) which includes creosote product recovery and a land treatment unit (LTU), post-closure care of a Surface Impoundment (SI), post-closure care of a Waste Pile Unit (WPU), and the implementation of facility-wide corrective action.

BNSF was required in permit MTHWP-01-02 to submit an application for a permit modification to establish the groundwater portion of the SI/WPU corrective action program. BNSF also submitted a Class 3 permit modification request in accordance with 40 CFR 270.42(b) to MDEQ on November 21, 2005, to permit storage tanks T-6 and T-7 and remove permit attachments V.5, V.6, and V.7. The permit was modified to include requirements for an Alternate Concentration Limit (ACL) for groundwater and to

permit storage tanks T-6 and T-7, along with removal of permit attachments V.5, V.6, and V.7, on July 26, 2006.

In accordance with permit condition I.C.3., and requirements under 40 Code of Federal Regulations (CFR) 270.50(d), the Department has conducted a five-year review of the Permit. This review provided an opportunity to update changes that have occurred at the site since the permit reissuance in 2001, to update typographical errors, and also clarify several permit conditions.

Also, the ownership of a portion of the former surface impoundment has changed, and the new owners are reflected in this draft permit modification.

Objectives of Proposed MDEQ Action

MDEQ's objective in issuing a permit modification is to comply with 40 CFR 270.50(d); five-year review of the permit. During the MDEQ's five-year permit review, there were several updates and changes at the facility, as well as general language clarifications and corrections, that were modified in the permit.

Alternatives Considered

Alternative I – Modification (Proposed Action)

Under this alternative, MDEQ would modify the permit to include the changes made during the five-year permit review along with the ownership change for the portion of the surface impoundment known as Section 18.

Alternative II – No Action

Under this alternative, MDEQ would not make any changes to the Permit. The MDEQ would not reflect the new ownership of the portion of the surface impoundment known as Section 18; the MDEQ would not update and provide clarification and typographical corrections to the existing permit.

Stipulations and Controls

All conditions of the draft permit are based on requirements in Title 17, Chapter 53 of Administrative Rules of Montana (ARM) for the management of hazardous waste. BNSF must comply with the permit conditions to be in compliance with Montana's hazardous waste laws and regulations.

Analysis of Regulatory Impacts on Private Property Rights

A Private Property Assessment Act Checklist was completed for this draft permit modification and is on file at the MDEQ. The MDEQ determined that no takings or damaging implications exist requiring a further impact assessment.

Summary of Impacts

Tables 1 and 2 rate potential human environment impacts from modifying MTHWP-01-02 according to Alternatives I and II. The human environment includes those attributes, such as biological, physical, social, economic, cultural, and aesthetic factors, that interrelate to form the environment. Impacts may be adverse, beneficial, or both. The following criteria are used to rate the impacts:

- ◆ The severity, duration, geographic extent, and frequency of occurrence;
- ◆ The probability the impact will occur if the proposed action occurs;
- ◆ Growth-inducing or growth-inhibiting aspects of the impact;
- ◆ The quantity and quality of each environmental resource or value effected;
- ◆ The importance to the State and society of each environmental resource or value effected;
- ◆ Any precedent set as a result of an impact from the proposed action that would commit MDEQ to future actions with significant impacts or a decision in principle about such future actions; and
- ◆ Potential conflict with local, state, or federal laws, requirements, or formal plans.

The following are definitions for major, moderate, minor, none, and unknown impacts on the human environment:

Major: A significant change from the present conditions of the human environment. Major impacts are serious enough to warrant preparing an environmental impact statement (EIS).

Moderate: Not a major or minor change from the present condition of the human environment. A single moderate impact may not warrant preparing an EIS; however, when considered with other impacts, an EIS may be required.

Minor: A slight change from the present condition of the human environment. Minor impacts are not serious enough to warrant preparing an EIS.

None: No change from the present conditions of the human environment.

Unknown: An EIS must be conducted to determine the effects on the human environment if impacts are unknown.

Table 1. Potential Impacts on Physical and Biological Environment

Resources		Major	Moderate	Minor	None	Unknown	Discussion Attached
A.	Air Quality				■ ▲		
B.	Water Quality, Quantity, and Distribution				■ ▲		
C.	Geology and Soil Quality, Stability, and Moisture				■ ▲		
D.	Historical and Archaeological Sites				■ ▲		
E.	Aesthetics				■ ▲		
F.	Terrestrial and Aquatic Life and Habitats				■ ▲		
G.	Vegetation Cover, Quantity, and Quality				■ ▲		
H.	Unique, Endangered, Fragile, or Limited Environmental Resources				■ ▲		
I.	Demands on Environmental Resource of Water, Air, and Energy				■ ▲		
J.	Cumulative and Secondary Impacts				■ ▲		

Table 2. Potential Impacts on Social, Economic, and Cultural Environment

Resources		Major	Moderate	Minor	None	Unknown	Discussion Attached
A.	Social Structures and Mores				■ ▲		
B.	Cultural Uniqueness and Diversity				■ ▲		
C.	Local and State Tax Base and Tax Revenue				■ ▲		
D.	Agricultural or Industrial Production				■ ▲		
E.	Human Health				■ ▲		
F.	Access to and Quality of Recreational and Wilderness Activities				■ ▲		
G.	Quantity and Distribution of Employment				■ ▲		
H.	Distribution of Population				■ ▲		
I.	Demands for Governmental Services				■ ▲		
J.	Industrial and Commercial Activity				■ ▲		
K.	Locally Adopted Environmental Plans and Goals				■ ▲		
L.	Cumulative and Secondary Impacts				■ ▲		

Individuals or Groups Contributing to EA

Montana Department of Environmental Quality

Draft EA Prepared

Ann Kron

August 1, 2007

Recommendation

Based on the EA analysis, MDEQ recommends Alternative I (the proposed action). Modifications made during the five year permit review are mostly to correct past typographical errors, to update current ownership of a portion of the former surface impoundment, and to update minor changes to practices conducted at the site in fulfillment of permit requirements.

The EA is an adequate level of environmental review; an EIS is not required. The EA analysis demonstrates that this State action will not be major action significantly affecting the quality of the human environment.